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ABSTRACT

The booklet discusses a basic concept in affirmative action and nondiscrimination for the handicapped, which requires federal agencies to make reasonable accommodation to the physical or mental limitations of a qualified handicapped applicant or employee unless the accommodation would impose an undue hardship on the agency. Reasonable accommodation is defined, and some factors to be used in determing whether there might be undue hardship if an accommodation is made are described. Examples of actions that can be taken to accommodate the handicapped are presented, including modifying written examinations, modifying worksites, making facilities accessible, adjusting work schedules, restructuring jobs, providing assistive devices, providing readers and interpreters, adopting flexible leave policies, reassigning and retraining employees, and eliminating transportation barriers. The section on reasonable accommodation from the Code of Federal Regulations is appended. (DIS)

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Personnel Management Series

# HANDBOOK OF REASONABLE ACCOMODATION

United States Office of Personnel Management

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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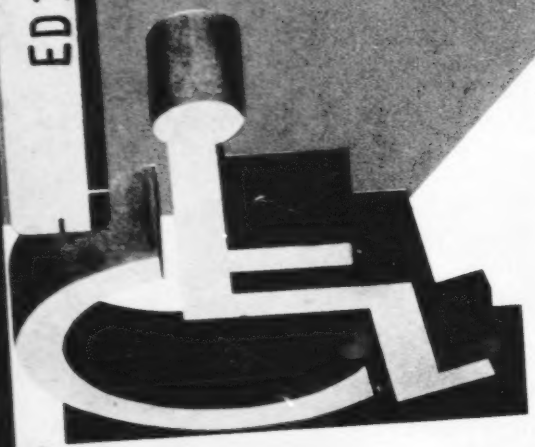

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# Preface

A very basic concept in affirmative action and nondiscrimination for handicapped individuals is reasonable accommodation. Federal agencies are required to make reasonable accommodation to the physical or mental limitations of a qualified handicapped applicant or employee unless the accommodation would impose an undue hardship on the agency. The standard used to determine reasonable accommodation of handicapped individuals without undue hardship is not to be confused with reasonable accommodation for religious beliefs (29 CFR 1605).

This is the first in a series of booklets on reasonable accommodation. It contains a definition of examples of actions that can be taken to accommodate handicapped individuals. It also describes some factors to be used in determining whether there might be undue hardship if an accommodation is made.

As the state of the art changes, subsequent booklets will contain more detailed information on job analysis and job modification, assistive devices and architectural barriers. A resource listing and bibliography will also be included.

Additional information on Federal employment of handicapped individuals can be found in the following:

- Handbook of Selective Placement of Persons with Physical and Mental Handicaps in Federal Civil Service Employment (OPM Doc. 125-11-3, March 1979)
- Federal Personnel Manual (FPM) (Chapter 306, Selective Placement Programs)
- Code of Federal Regulations (29 CFR 1613) (29 CFR 1613.704 on reasonable accommodations is contained in Appendix A)
- Equal Employment Opportunity Commission (EEOC) instructions to Federal agencies concerning affirmative action programs for handicapped individuals including disabled veterans (available from EEOC's Office of Government Employment, 2401 E Street, N.W., Washington, D.C. 20506).

This publication was prepared in the Office of Selective Placement Programs of the Office of Affirmative Employment Programs, under the direction of A. Diane Graham and the supervision of Hedwig Oswald. The major work was done by Sandra M. Heaton. The manuscript was prepared for printing by Sondra Foster.

# Handbook on Reasonable Accommodation

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Section 1613.704 on Reasonable Accommodation from Title 29, Code of Federal Regulations.

## What Is Reasonable Accommodation?

Regulations on nondiscrimination for handicapped individuals require that agencies make reasonable accommodation to the known physical or mental limitations of a handicapped applicant or employee unless it can be shown that the accommodation would cause undue hardship on the agency.

Although the concept of reasonable accommodation is an area of concern to many people, accommodations are nothing new in an employment situation. Every time an employer purchases new equipment or functional office furniture, allows flexible working hours, coffee breaks, or provides anything that creates a more efficient or productive work place, an accommodation has been made.

Reasonable accommodation is just what the words suggest: a logical adjustment made to a job and/or the work environment that enables a qualified handicapped person to perform the duties of that position.

Accommodations can only be determined on a case-by-case basis, taking into consideration the applicant or employee, his/her specific disability and the existing limitations, the essential duties of the particular job, the work environment, and the reasonableness of the proposed accommodation. In all cases, the applicant or employee should be consulted before an accommodation is made. Accommodations are highly individualized and what may have been successful for one disabled person may not be appropriate for another. Also, in many cases, the person may have made adjustments to his/her disability so that no accommodation is needed or wanted.

The value and nature of a particular accommodation may be clarified by considering questions such as the following:

- Is the accommodation necessary for performance of duties?
- What effect will the accommodation have on the agency's operations and on the employee's performance?
- To what extent does the accommodation compensate for the handicapped person's limitations?
- Will the accommodation give the person the opportunity to function, participate, or compete on a more equal basis with coworkers?
- Would the accommodation benefit others (nonhandicapped as well as other handicapped individuals)?
- Are there alternatives that would accomplish the same purpose?

The concept of reasonable accommodation does not apply only to selection and placement. It also is considered in recruitment, training, promotion, reassignment, and develomental assignments. For example, promotion vacancy announcements could be brailled or taped to provide equal access to blind employees. In order to give handi-

capped employees opportunities to attend formal training programs, agencies are authorized to use training funds to provide special services, such as interpreters, readers, and brailling or taping of course materials. The responsibility to provide reasonable accommodation does not end when the disabled person is placed in a position.

It should also be noted that reasonable accommodation is required for **qualified** handicapped applicants and employees. A qualified handicapped person means, with respect to employment, a handicapped person who with or without reasonable accommodation can perform the essential functions of the position without endangering the health and safety of the individual or others and who, depending upon the type of appointing authority being used: (1) meets the experience and/or education requirements (which may include passing a written test) of the position in question, or (2) meets the criteria for appointment under one of the special appointing authorities for handicapped persons.* Reasonable accommodation is not required for persons who are not qualified for the position in question.

## When Does Undue Hardship Occur?

Regulations require agencies to make reasonable accommodation unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of its program. These determinations must be made on an individual case-by-case basis but there are several factors to be considered in determining undue hardship. These include:

- The overall size of the agency with respect to number of employees, number and type of facilities, and size of budget.
- The type of operation, including the composition and structure of the work force.
- The nature and cost of the accommodation needed.

While most accommodations need not be costly or adversely affect the operation of an agency program, all alternatives should be explored to determine that the reasonable accommodation proposed is the most effective one for both the employee and the agency.

*Special appointing authorities for severely physically handicapped and mentally retarded persons are available in the excepted service under Schedule A. Persons serving under these appointments may acquire competitive status after 2 years. Another special appointing authority for mentally restored persons is available in the excepted service under Schedule B. Persons serving under this appointment must meet competitive procedures or have reinstatement rights in order to continue in Federal employment after 2 years. (See FPM Chapter 306.)

## What Does Reasonable Accommodation Include?

The types of actions that can be taken in connection with reasonable accommodation are as varied as the needs of the individuals involved, the type of position in question and the ingenuity of the agency. Reasonable accommodation may include, but is not limited to, the following:

**Modifying Written Examinations**

Although many handicapped persons can demonstrate their qualifications through usual procedures, modifications are sometimes necessary to enable those with certain disabilities to achieve test results commensurate with their abilities. Special arrangements made to avoid compounding the problems faced by handicapped competitors are equalizing rather than preferential. The objective is to eliminate any artificial barriers which would prevent such persons from demonstrating their capabilities in the examination process. Modification of examination procedures can include any or all of the following:

- Modifying test administration methods. In some instances, modification of the manner in which a test is administered is necessary. Consideration should be given to scheduling individual or small group testing, allowing extra time, and using examiners specifically trained for this task. Accommodations might include reading to blind persons or persons with reading disabilities; writing for persons who have difficulties using their hands; and interpreing test instructions, but not questions, into sign language for the deaf; and
- Modifying exam content. If a competitor's handicap causes some part of a test to be unusable or inappropriate, it may be necessary to modify exam content or to develop alternate materials which measure the same knowledges, skills, and abilities but which do not tend to screen out handicapped competitors. The Office of Personnel Management has modified certain examinations for deaf and blind applicants and may be able to offer advice about types of modifications. OPM is prepared to respond quickly to requests for advice on individual cases. (Modifications to exams must have OPM prior approval.)

It should be noted here that examinations must be offered in accessible facilities. If a thorough review of an examination facility reveals the presence of barriers (stairs, inaccessible parking, etc.), steps should be taken to remove those barriers or, when this is not feasible, to arrange for use of an alternate location.

**Modifying Worksites**

In many cases, changes in the work environment enable handicapped persons to more effectively perform job duties. Alterations can be as simple as:

- Rearranging files or shelves for accessibility to wheelchair occupants;
- Widening access areas between fixtures to allow room for wheelchairs;
- Placing braille labels or tactile cues on shelves so that blind employees can identify contents;
- Raising or lowering equipment to provide comfortable working heights;
- Moving equipment controls to one side or another or modifying them for hand or foot operation;
- Installing special holding devices on desks, machines, or benches;
- Installing touch-tone telephones for those who cannot dial;
- Providing a speaker phone or an extension arm or gooseneck to hold a phone receiver;
- Installing telecommunication devices or telephone amplifiers for persons who are deaf or hard of hearing; and
- Providing special heating or air conditioning units for persons who are sensitive to environmental temperature.

Work locations should be reviewed with supervisors, vocational rehabilitation counselors and disabled persons to spot worksite modifications which can be made. The premium is on ingenuity, and the investment involved can yield tremendous returns in competent and efficient job performance.

**Making Facilities Accessible**

Reasonable accommodation is different from architectural accessibility and program accessibility, which are dealt with under statutes such as the Architectural Barriers Act of 1968, as amended and section 504 of the Rehabilitation Act of 1973, as amended. For buildings not covered by existing accessibility statutes, provision of accessibility may be an aspect of reasonable accommodation. In such cases, reasonable accommodation might include physical modification of facilities or relocation of particular offices or jobs so that they are in facilities or parts of facilities that are accessible to and usable by handicapped persons.

Accommodations that may need to be made involve eliminating barriers in the physical design of the environment. This is a broader concern than modification of the worksite environment. It is a

matter of dealing with the major obstacles in the way of handicapped persons getting to and from the work site.

Until very recently, transportation systems, buildings, and other facilities were designed and constructed with little concern for the needs of disabled people. Persons who could be capable and effective employees must not be denied the opportunity to contribute their talents because of artificial barriers. Federal agencies may not discriminate against qualified handicapped applicants or employees due to facility inaccessibility.

Physical and/or structural changes should be made in order to create as barrier-free an environment as practicable. Eliminating architectural barriers through such means as ramps, wider doorways, elevators, work platforms, and handrails often makes the work facility more usable by all employees, not just those who are handicapped. Systematic programs of barrier removal should be undertaken.

**Adjusting Work Schedules**

Some handicapped individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard 40-hour work week. By taking advantage of the flexibilities of alternative work schedules, accommodations can be made for various disabilities.

Flexible or altered work schedules may be needed to accommodate disabled workers. Mobility-impaired employees who find it difficult to maneuver during peak periods on public transportation systems might start their working day a little earlier or later. Workers requiring medical treatment may need a flexible schedule one or two days a week. Persons who need rest periods could adjust their schedules to make up the time at the beginning or end of the workday. Sometimes employees, because of particular disabilities such as diabetes and epilepsy, should work a regular schedule even though others holding comparable jobs are required to work differing shifts. This is especially true if the disability is affected by a person's eating or sleeping schedule.

The Federal Employees' Part-time Career Employment Act of 1978 (P.L. 95-437) offers a needed alternative for those individuals who require or prefer shorter hours. The Alternative Work Schedules Experimental Program, a 3-year experiment authorized by the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (P.L. 95-390), also encourages various accommodations such as flexible working hours, extended rest periods, and use of the home as an official work location.

**Restructuring Jobs**

Job restructuring is one of the principal means by which qualified handicapped workers can be accommodated. Whether it is called job modification, adaptation, redesign, restructuring, tailoring or engineering, the idea is to locate which factors make a job incompatible with a worker's handicap and, if possible, eliminate them so that the capabilities of the person may be used to the best advantage. Job restructuring does not alter the essential function of the job. Rather, any changes made are those which enable the disabled person to perform these functions. This sometimes involves changing job content by isolating and eliminating nonessential duties through reassignment. Often, however, job modification is a matter of slightly altering the method of task accomplishment.

Ascertaining the capabilities of individuals and identifying limitations must precede job restructuring. The first person to consult is the handicapped individual to be accommodated. Supplementary information can be obtained through consultation with specialists in the field of vocational rehabilitation.

Rehabilitation counselors, who can be found at State vocational rehabilitation agencies, VA hospitals and centers, private rehabilitation centers, and universities with rehabilitation units, can also make sound recommendations on ways in which jobs can be tailored.

Careful job analysis to determine the exact demands of positions must also precede job restructuring. A wide variety of inputs by those with intimate knowledge of the jobs involved, such as supervisors and persons who currently perform the jobs or have performed them in the past, should be included in the analysis process. This enables the most accurate differentiation to be made between basic functions and those which are non essential and can be reassigned.

**Providing Assistive Devices**

Through advanced technology, numerous assistive devices are available to handicapped individuals. While such devices alone cannot ensure successful job performance, they often enable disabled persons to perform tasks they would not otherwise be able to do or to increase the quantity, quality, or efficiency of their work.

Some assistive devices are inexpensive; some quite costly. Before purchasing any special equipment, the handicapped employee should be consulted as to what is needed and/or wanted. In many cases, the person may have adapted to his/her disability in such a way that no special equipment is necessary.

As a general rule, agencies are authorized to purchase equipment if it is determined that the use of the equipment is necessary in transaction of the official business of the agency. The equipment may not be of a personal nature (for example: eyeglasses, hearing aids, etc.) which the employee could reasonably be expected to provide. In determining whether the purchase of a device should be authorized, consideration should be given to how well the employee could perform the job without the equipment and whether the principal benefit would be better job performance by the employee.

Devices may also be available from other sources. State vocational rehabilitation agencies can provide funds or equipment in some instances. Community organizations and service clubs occasionally also sponsor the purchase of equipment.

**Providing Readers and Interpreters**

**Readers:** Many agencies have found that the best way of providing reading assistance to blind employees is to have other employees provide this service as needed. In most cases, this amounts to a relatively small fraction of an employee's workday. Agencies have the administrative authority to assign employees to provide reading services on a part-time or "as required" basis. This service can be classified under "other duties as assigned."

The Civil Service Reform Act of 1978 authorizes agencies to hire readers for blind employees. Guidance is provided in FPM Chapter 306. Generally, a reader will be assigned to provide reading assistance to a specific employee. For this reason, the blind employee should be involved in the selection process.

Providing reading assistance to a blind employee in no way relieves an agency of the responsibility to provide clerical, secretarial, and/or stenographic assistance to that employee in those instances where the blind employee's position entitles him or her to, or requires, such assistance. In most instances, the person providing clerical, secretarial, and/or stenographic assistance to the blind employee will also provide reading assistance, since such an arrangement seems to have proven to be the most helpful to blind employees.

**Interpreters:** Although some situations require a high degree of interpreting skills which most employees would not be expected to possess, much day-to-day communication can be accomplished by employees who have learned basic sign language. Many coworkers of deaf employees have taken it upon themselves to learn sign language and some agencies have offered courses for their employees. When employees have gained sufficient skill in sign

language, they may provide day-to-day communication services for their deaf coworkers.

Just as with reading assistance for blind employees, agencies have the administrative authority to assign other employees to provide these services on a part-time or "as required" basis. These services can be classified as "other duties as assigned".

As with reading assistants, agencies may hire an employee to provide interpreter assistance on a full-time, part-time, or intermittent basis. Guidance is provided in FPM Chapter 306.

In those situations such as conferences, training courses, meetings, or court appearances where employees would not be expected to possess the high degree of interpreting skills which might be necessary for the deaf individual to communicate effectively, personel service contracts may also be used to obtain interpreting services from outside sources.

**Adopting Flexible Leave Policies**

Agencies have the authority to adopt flexible leave policies that will accommodate handicapped employees. While the administration of the leave system is subject to certain laws and regulations, agencies can adopt flexible leave policies which will accommodate handicapped employees. Flexibilities can particularly be built into an agency's policy on the use of administrative leave and leave without pay.

Situations in which a liberal policy on excused absence with pay would be appropriate include:

- When a handicapped employee must attend training on an assistive device, such as an Optacon, an electronic device that converts printed images to tactile cues for blind people;
- When extreme weather conditions make it difficult for mobility-impaired employees to get to or from work. For example, employees are generally expected to report for work after snow removal has been accomplished. However, in many cases, snow removal equipment makes travel by mobility-impaired individuals even more difficult by creating insurmountable snow drifts at the curb cuts. Agencies can adopt separate leave policies for situations such as this, but should identify in advance employees who would be covered by the extended policy; and
- When temporary building conditions adversely affect performance or health, such as extremes of heat or cold which could affect persons with neurological disorders or respiratory ailments.

Liberal policies can also be extended to granting extended leave

without pay for illness or disability and for retraining of employees who become disabled. Agencies can also establish liberal annual leave or excused absence policy for meetings or conventions where it can reasonably be assumed that attendance would increase the handicapped employee's knowledge, skills, or potential.

Whatever flexibilities are used, they should be carefully spelled out to prevent misunderstanding and should be consistently applied for all appropriate employees.

**Reassigning and Retraining Employees**

In cases of current Federal employees who become disabled after employment, agencies have a responsibility to make every effort for their continued utilization. An employee who, because of illness or injury, is unable to continue to perform the duties of his or her current position should not automatically be retired on disability. Alternatives include:

- Retraining: Agencies should give serious consideration to the possibility of retraining disabled employees for positions for which they have the basic qualifications and capabilities. Although an initial expense is involved in retraining, the result will justify the expenditure if the employee and the position are matched carefully beforehand. Assistance may be available from vocational rehabilitation agencies; and
- Reassignment: The employee's work experience and education may indicate that he or she can perform satisfactorily in another position. Under certain circumstances, an exception may be made to normal qualification standards to facilitate reassignment. Reassignment need not necessarily be limited to positions of the same grade or series. The possibility that the employee would be willing to accept reassignment to a lower grade position with less strenuous physical or mental demands is not to be overlooked.

**Eliminating Transportation Barriers**

One of the most difficult problems handicapped individuals face is transportation to the work site. Until recently, little was done to eliminate or reduce transportation barriers. Although steps are now being taken to alleviate these problems, more needs to be done. Government agencies can do a great deal to help individual handicapped employees solve their personal transportation problems.

Agencies that help employees form carpools can help handicapped individuals locate coworkers with whom they can ride.

Federal agencies may request that space not required for official parking be used for employee parking. Government employees so severely physically handicapped as to prohibit or make unreasonably difficult the use of public transportation have high priority in assignment of employee parking spaces in and around properties under the custody and control of the General Services Administration. Medical certification of a handicapped individual's need for parking privileges may be required.

Nonhandicapped drivers who provide transportation for handicapped Federal employees may make use of parking privileges for disabled people who ride with them. The General Services Administration has published a regulation stating that Federal agencies are to give these persons the same priority in assignment of parking spaces that they give handicapped employees who drive.

The preceding are only some of the types of actions that can be taken to accommodate handicapped individuals. They are not imaginary situations but are examples of adjustments already being made by many Federal agencies. As more experience is gained, the list of examples will expand to include other new and innovative approaches to reasonable accommodation.

# Appendix A

## Section 1613.704 on Reasonable Accommodation From Title 29, Code of Federal Regulations

a. An agency shall make reasonable accommodation to the known physical or mental limitations of a qualified handicapped applicant or employee unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

b. Reasonable accommodation may include, but shall not be limited to: (1) Making facilities readily accessible to and usable by handicapped persons, and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, appropriate adjustment or modification or examinations, the provision of readers and interpreters, and other similar actions.

c. In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of the agency in question, factors to be considered include: (1) The overall size of the agency's program with respect to the number of employees, number and type of facilities, and size of budget; (2) the type of agency operation, including the composition and structure of the agency's work force; and (3) the nature and the cost of the accommodation.



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